

DOCKET FILE COPY ORIGINAL Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)

DTV Consumer Education Initiative)

MB Docket No. 07-148)

ORDER

Adopted: June 12, 2008

Released: June 16, 2008

By the Commission:

I. INTRODUCTION

1. In this Order, we revise the location for filing Form 388, DTV Quarterly Activity Station Report. In the *DTV Consumer Education Order* the Commission sought to ensure widespread consumer understanding of the benefits and mechanics of the transition by promoting a coordinated, national DTV consumer education campaign.¹ One facet of this campaign was the establishment of a requirement that broadcasters provide on-air information to their viewers about the DTV transition, by compliance with one of three alternative sets of rules, and report those efforts to the Commission and the public.² In particular, we required that the efforts be recorded on Form 388 and filed with the Commission via the Electronic Comment Filing System (ECFS).³

II. DISCUSSION

2. The first filing under these rules was due on April 10, 2008. Based on broadcaster and Commission experience with that filing, we find that the Consolidated DataBase System (CDBS) is a better database in which to file these forms. CDBS is more commonly used by broadcasters to file forms of this nature, and the electronic filing format simplifies both data entry by filers and review by the Commission. Therefore, in order to facilitate the reporting and review of broadcaster education efforts, this *Order* makes a procedural change to the consumer education rules and the instructions to Form 388. Beginning with the reports covering the second quarter of 2008, due July 10, 2008, Form 388 must be filed in CDBS, instead of ECFS. The change in the filing database creates no additional burden on broadcasters and all other requirements remain the same.

¹ *In the Matter of DTV Consumer Education Initiative*, Report and Order, 23 FCC Rcd 4134, MB Docket No. 07-148 (rel. Mar. 3, 2008) ("*DTV Consumer Education Order*").

² *Id.* at ¶¶ 7-35.

³ *Id.* at Appendix B, Sections 73.3526 and 73.3527.

III. PROCEDURAL MATTERS⁴

A. Paperwork Reduction Act Analysis

3. This Order was analyzed with respect to the Paperwork Reduction Act of 1995 ("PRA") and does not contain a substantive or material modification to an information collection. Therefore, it does not require resubmission to the Office of Management and Budget.⁵ In addition, therefore, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees."⁶

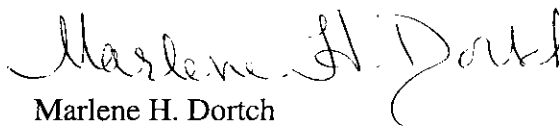
B. Additional Information

4. For more information on this Order, please contact Lyle Elder, Lyle.Elder@fcc.gov of the Media Bureau, Policy Division, 202-418-2120, or Eloise Gore, Eloise.Gore@fcc.gov of the Media Bureau, 202-418-7200.

IV. ORDERING CLAUSE

5. IT IS ORDERED that, pursuant to the authority contained in Sections 1, 4, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, and 303, this Order IS ADOPTED and the Commission's Rules and Form 388 ARE HEREBY AMENDED as set forth in Appendices A and B, respectively. The non-substantive revisions to the rules in this Order will be effective immediately upon publication of the summary of the Order in the Federal Register.⁷

FEDERAL COMMUNICATIONS COMMISSION


Marlene H. Dortch
Secretary

⁴ The Administrative Procedure Act, the Regulatory Flexibility Act of 1980, and the Congressional Review Act do not require notice or reporting in the case of revisions to Agency procedural rules. See 5 U.S.C. §§ 553(b)(A), 604, 808(2).

⁵ 44 U.S.C. § 3507(h)(3).

⁶ The Small Business Paperwork Relief Act of 2002 ("SBPRA"), Pub. L. No. 107-198, 116 Stat. 729 (2002) (codified in Chapter 35 of Title 44 U.S.C.); see 44 U.S.C. 3506(c)(4).

⁷ See 5 U.S.C. § 553(d).

APPENDIX A

Amended Rules⁸

Part 73 of Title 47 of the Code of Federal Regulations are amended as follows:

Part 73 – Radio Broadcast Services

1. The authority citation for Part 73 continues to read as follows:

AUTHORITY: 47 U.S.C. 154, 303, 334, 336.

2. Section 73.3526 is revised to read as follows:

§ 73.3526 Local Public Inspection File of Commercial Stations

* * * * *

(e) *Contents of the file.*

* * * * *

(11)(iv) *DTV Transition Education Reports.* For full-power commercial TV broadcast stations, both analog and digital, on a quarterly basis, a completed Form 388, DTV Consumer Education Quarterly Activity Report. The Report for each quarter is to be placed in the public inspection file by the tenth day of the succeeding calendar quarter. By this date, a copy of the Report for each quarter must be filed electronically ~~with the Commission in Docket Number 07-148 using the Commission's Consolidated DataBase System (CDBS). Electronic Comment File System (ECFS).~~ The "Document Type" on the cover sheet must indicate "REPORT." Stations electing to conform to the requirements of Section 73.674(b) must also provide the form on the station's public website, if such exists. The Report shall be separated from other materials in the public inspection file. The first Report, covering the first quarter of 2008, must be filed no later than April 10, 2008. The Reports must continue to be included up to and including the quarter in which a station concludes its education campaign. These Reports shall be retained in the public inspection file for one year. Licensees and permittees shall publicize in an appropriate manner the existence and location of these Reports.

3. Section 73.3527 is revised to read as follows:

§ 73.3527 Local Public Inspection File of Noncommercial Educational Stations

* * * * *

(e) *Contents of the file.*

* * * * *

⁸ Changes are indicated in **bold**.

(13) *DTV Transition Education Reports*. For full-power noncommercial educational TV broadcast stations, both analog and digital, on a quarterly basis, a completed Form 388, DTV Consumer Education Quarterly Activity Report. The Report for each quarter is to be placed in the public inspection file by the tenth day of the succeeding calendar quarter. By this date, a copy of the Report for each quarter must be filed electronically ~~with the Commission in Docket Number 07-148~~ using the Commission's **Consolidated DataBase System (CDBS)**. ~~Electronic Comment File System (ECFS). The "Document Type" on the cover sheet must indicate "REPORT."~~ Stations electing to conform to the requirements of Section 73.674(b) must also provide the form on the station's public website, if such exists. The Report shall be separated from other materials in the public inspection file. The first Report, covering the first quarter of 2008, must be filed no later than April 10, 2008. The Reports must continue to be included up to and including the quarter in which a station concludes its education campaign. These Reports shall be retained in the public inspection file for one year. Licensees and permittees shall publicize in an appropriate manner the existence and location of these Reports.

APPENDIX B

Amended Form 388 (attached)

FCC 388

DTV Quarterly Activity Station Report

Instructions

This form must be filed by all broadcasters subject to the requirements of 47 C.F.R. §§ 73.3526 and 73.3527. It should be used to provide the Federal Communications Commission (FCC) with information pertaining to all station activity to educate consumers on the transition to digital television (DTV). All stations should log DTV Transition-Related Public Service Announcement (PSAs) and other DTV activities using the appropriate house (identification) numbers. These logs or records should include the date and time that each DTV activity occurred. This form must be filed using the Broadcast Radio and Television Consolidated DataBase System (CDBS), and placed in the station's Public Inspection File. For more information on filing via CDBS, please visit: <http://www.fcc.gov/mb/cdb.html>. This form must continue to be filed for each quarter in which a station has DTV Transition education obligations.

Station Call Sign(s) _____

Report reflects information for quarter ending (mm/dd/yy)

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Have you opted to comply with Option One, Two, or Three (once elected, this choice may not change)?

☐ Option One (A and D)
 ☐ Option Two (B and D)
 ☐ Option Three (C and D)

Over the past quarter, have you fully complied with the requirements of this option?

☐ Yes
 ☐ No

Simulcasting

Are you simulcasting on your Analog channel and your primary Digital stream?

☐ Yes
 ☐ No

If YES, complete only one form for both. If NO, complete a form for your Analog channel and a second for your primary Digital stream.

Call Sign	Channel Numbers	Community of License									
		City	State	County	Zip Code						
	Analog <input type="checkbox"/>										
	Digital <input type="checkbox"/>										
Licensee											
Above, check the Channel Number(s) to which this form applies.			Nielsen DMA	World Wide Web Home Page Address							
Facility ID Number			Previous Call Sign (if applicable)	License Renewal Expiration Date (mm/dd/yy)							
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Section A (For broadcasters electing Option One)

Stations that elect Option One must place a copy of this form on the station's public website, if such exists.

On its analog channel, and its primary digital stream, a station must air one transition PSA, and run one transition crawl, in every quarter of every day. This requirement will increase to two PSAs and crawls per quarter per day on April 1, 2008, and to three of each on October 1, 2008. Stations are required to air PSAs or crawls at various times in any given day part, and at least one PSA and one crawl per day must be run during primetime hours. On-air education must not contain inaccurate or misleading statements and must be provided in the same language as a majority of the programming carried by the station. PSAs must be at least 15 seconds, and closed-captioned. Crawls must run during programming for no fewer than 60 consecutive seconds across the bottom or top of the viewing area (See rules for additional details).

Have you aired a sufficient number of eligible PSAs (28, 56, or 84 per week, depending on the reporting period) during the correct quarters of the day?

☐

Yes

☐

No

Have you aired a sufficient number of eligible crawls (28, 56, or 84 per week, depending on the reporting period) during the correct quarters of the day?

☐

Yes

☐

No

Section B (For broadcasters electing Option Two)

On its analog channel, and its primary digital stream, a station must run an average of 16 transition- related PSAs and 16 transition-related crawls, snipes, and/or tickers per week in each quarter, all between the hours of 5 a.m. and 1 a.m. It must also run one 30 minute DTV-related informational program once, and one 100-Day Countdown piece per day for the 100 days prior to the conclusion of the transition. Comment boxes MUST be used to describe these compliant activities (See rules for additional details).

Total Number of Eligible DTV Transition-Related PSAs and Crawls, Snipes, and/or Tickers (CSTs) Run -- Last Quarter

How many DTV PSAs and CSTs did your station run between 5:00 a.m. and 1:00 a.m. last quarter?

Total 5:00 a.m. to 1:00 a.m. PSAs

Total 5:00 a.m. to 1:00 a.m. CSTs

For informational purposes only, how many DTV PSAs and CSTs did your station run in the last quarter from 6:00 a.m. to 9:00 a.m.?

Total 6:00 a.m. to 9:00 a.m. PSAs

Total 6:00 a.m. to 9:00 a.m. CSTs

For stations located in the Eastern or Pacific Time Zone, how many DTV PSAs and CSTs did your station run in the last quarter from 6:00 p.m. to 11:35 p.m. (must average at least 4 per week)?

Total 6:00 p.m. to 11:35 p.m. PSAs

Total 6:00 p.m. to 11:35 p.m. CSTs

For stations located in the Central or Mountain Time Zone, how many DTV PSAs and CSTs did your station run in the last quarter from 5:00 p.m. to 10:35 p.m. (must average at least 4 per week)?

Total 5:00 p.m. to 10:35 p.m. PSAs

Total 5:00 p.m. to 10:35 p.m. CSTs

Comments (add additional sheets where necessary):

30 Minute Educational Programs - Last Quarter

How many 30 minute, DTV-related informational programs did your station run during the quarter? At least one such program must be run between the hours of 8:00 a.m. and 11:35 p.m., prior to February 17, 2009.

Total number of 30 Minute Informational Programs

Comments (add additional sheets where necessary):

100 -Day Countdown Eligible Pieces - Last Quarter Beginning on November 10, 2008, all stations participating in Option Two will engage in special 100-Day "Countdown to DTV" activities. Stations must execute a minimum of one "Countdown To DTV" on-air activity per day during the 100 days leading up to February 17, 2009. During the last quarter, how many of each eligible 100-Day "Countdown to DTV" pieces did your station run?

_____ *Graphic Displays*

_____ *Animated Graphics*

_____ *Graphic and Audio Displays*

_____ *Longer Form Reminders*

Comments (add additional sheets where necessary):

Section C (For Noncommercial broadcasters only)

On its analog channel, and its primary digital stream, a station must air 60 seconds per day of on-air consumer education, in variable timeslots, including at least 7.5 minutes per month between 6 pm and 12 am. Beginning May 1, 2008, this requirement doubles, and beginning November 1, 2008, it increases again, to 180 seconds per day and 22.5 minutes per month between 6 pm and midnight. It must also run one 30 minute transition education piece once (See rules for additional details).

Have you aired a sufficient amount of consumer education (60, 120, or 180 seconds per day, depending on the date) during each day this quarter?

☐

Yes

☐

No

30 Minute Educational Programs - Last Quarter

How many 30 minute, DTV-related informational programs did your station run during the quarter? The comment box may be used to describe this activity. At least one such program must be run between the hours of 8:00 a.m. and 11:35 p.m., prior to February 17, 2009.

Total number of 30 Minute Informational Programs

Comments (add additional sheets where necessary):

Section D (For all broadcasters)

Additional DTV On-air Initiatives - Last Quarter Did your station run additional on-air initiatives (such as news reports, town hall meetings, etc.) during the quarter? The comment box may be used to describe these initiatives.

☐

Yes

☐

No

Comments (add additional sheets where necessary):

Station Website Additional Activity Related to the DTV Transition - Last Quarter

Does your station have a Website?

☐

Yes

☐

No

If YES, did your station provide additional DTV related information or activities on that Website? The comment box may be used to describe what was posted on the station's Website.

☐

Yes

☐

No

Comments (add additional sheets where necessary):

Additional DTV Outreach Efforts -- Last Quarter Check all of the DTV related activities listed below that your station engaged in over the last quarter. The comment box may be used to describe this activity.

☐

Speaking Engagements

Comments (add additional sheets where necessary):

☐

Community Events

Comments (add additional sheets where necessary):

☐

Other (describe)

Comments (add additional sheets where necessary):

This comment box may be used to include other comments or information about your station's DTV activity over the last quarter.

Comments (add additional sheets where necessary):

STATION CERTIFICATION

I certify that the statements in this document are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

Typed or Printed Name of Person Signing	Typed or Printed Title of Person Signing
Signature	Date

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

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